

CHAPTER NO. 849

HOUSE BILL NO. 3232

By Representatives Kisber, Newton, Ralph Cole, Kent, Hargett, Todd, Pinion, Westmoreland, Bowers, John DeBerry, Mr. Speaker Naifeh

Substituted for: Senate Bill No. 3192

By Senators Clabough, Person, Crowe, Haun, Miller, Rochelle

AN ACT to amend Tennessee Code Annotated, Title 3; Title 4; Title 5; Title 6; Title 7; Title 9; Title 10; Title 11; Title 12; Title 13; Title 16; Title 17; Title 18; Title 19; Title 20; Title 21; Title 22; Title 23; Title 24; Title 28; Title 29; Title 33; Title 37; Title 38; Title 39; Title 40; Title 41; Title 42; Title 43; Title 45; Title 50; Title 53; Title 54; Title 55; Title 56; Title 57; Title 58; Title 59; Title 60; Title 63; Title 64; Title 65; Title 66; Title 67; Title 68; Title 69 and Title 71, relative to terrorism.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 39, Chapter 13, is amended by adding the following new part:

39-13-801. This act shall be known and may be cited as the "Terrorism Prevention and Response Act of 2002."

39-13-802. The general assembly hereby finds and declares that the threat of terrorism involving weapons of mass destruction, including, but not limited to, biological, chemical, nuclear, or radiological agents, is a compelling public safety and health concern. The general assembly recognizes that terrorism involving weapons of mass destruction could result in a disaster placing residents of Tennessee in great peril. The general assembly finds it necessary to sanction the possession, manufacture, use, or threatened use of chemical, biological, nuclear, or radiological weapons, as well as the intentional use or threatened use of industrial or commercial chemicals as weapons, to take other steps to prevent the occurrence of terrorist acts to the fullest extent possible, and to respond rapidly and effectively to any terrorist acts. The general assembly further finds and declares that hoaxes involving terrorist threats create a substantial drain on governmental resources and are a significant disruption to the operation of government as well as a disruption of the right of persons to a sense of personal security.

39-13-803.

(a) The intentional release of a dangerous chemical or hazardous material utilized in a lawful industrial or commercial process shall be considered use of a weapon of mass destruction when a person knowingly utilizes such agents with intent and for the purpose of causing harm to persons either directly or indirectly through harm to animals or the environment. The release of dangerous chemicals or hazardous materials for any purpose shall remain subject to regulation under federal and state environmental laws.

(b) The lawful use of chemicals for legitimate mineral extraction, industrial, agricultural, commercial, or private purposes (such as gasoline used to

power engines or propane used for heating or cooking) is not proscribed by this part.

(c) No university, research institution, private company, individual, hospital, or other health care facility shall be subject to this part for actions taken in furtherance of objectives undertaken for a lawful purpose provided that such actions are taken in connection with scientific or public health research or are necessary for therapeutic or clinical purposes and, as required, are licensed or registered with the Centers for Disease Control and Prevention pursuant to the Code of Federal Regulations or other applicable authorities.

39-13-804. As used in this part, unless the context otherwise requires:

(a) "Act of terrorism" means an act or acts constituting a violation of this part, any other offense under the laws of Tennessee, or an act or acts constituting an offense in any other jurisdiction within or outside the territorial boundaries of the United States that contains all of the elements constituting a violation of this part or is otherwise an offense under the laws of such jurisdiction, that is intended, directly or indirectly, to:

(1) Intimidate or coerce a civilian population;

(2) Influence the policy of a unit of government by intimidation or coercion; or

(3) Affect the conduct of a unit of government by murder, assassination, torture, kidnapping, or mass destruction.

(b) "Biological warfare agents" mean agents intended for use in war or other attack to cause disease or death in humans, animals, or plants that depend for their effect on multiplication within the target organism, and includes, but is not limited to, the following agents, or any analog of these agents:

(1) Bacteria

(A) *Bacillus anthracis* (anthrax);

(B) *Bartonella quintana* (trench fever);

(C) *Brucella* species (brucellosis);

(D) *Burkholderia mallei* (glanders);

(E) *Burkholderia pseudomallei* (melioidosis);

(F) *Francisella tularensis* (tularemia);

(G) *Salmonella typhi* (typhoid fever);

(H) *Shigella* species (shigellosis);

(I) *Vibrio cholerae* (cholera);

(J) *Yersinia pestis* (plague);

(K) *Coxiella burnetii* (Q fever);

- (L) *Orientia tsutsugamushi* (scrub typhus);
- (M) *Rickettsia prowazeki* (typhus fever);
- (N) *Rickettsia rickettsii* (Rocky Mountain spotted fever);
- (O) *Chlamydia psittaci* (psittacosis);
- (P) *Clostridium botulinum* (botulism);
- (Q) *Mycobacterium tuberculosis* (tuberculosis);
- (R) *Staphylococcus aureus* (staphylococcal enterotoxin B); and
- (S) *Escherichia coli* (E. coli);

(2) Fungi

- (A) *Coccidioides immitis* (coccidioidomycosis);
- (B) *Histoplasma capsulata* (histoplasmosis); and
- (C) Aflatoxin

(3) Viruses

- (A) Hantaan/Korean haemorrhagic fever and related viruses;
- (B) Sin Nombre;
- (C) Crimean-Congo haemorrhagic fever;
- (D) Rift Valley fever;
- (E) Ebola fever;
- (F) Marburg;
- (G) Lymphocytic choriomeningitis;
- (H) Junin (Argentinian haemorrhagic fever);
- (I) Machupo (Bolivian haemorrhagic fever);
- (J) Lassa fever;
- (K) Tick-borne encephalitis/Russian spring-summer encephalitis;
- (L) Dengue;
- (M) Yellow fever;

- (N) Omsk haemorrhagic fever;
- (O) Japanese encephalitis;
- (P) Western equine encephalomyelitis;
- (Q) Eastern equine encephalomyelitis;
- (R) Chikungunya;
- (S) O'nyong-nyong;
- (T) Venezuelan equine encephalomyelitis;
- (U) Variola major (smallpox);
- (V) Monkey pox;
- (W) White pox (variant of variola virus);
- (X) Influenza; and
- (Y) Hantavirus;

(4) Protozoa

- (A) *Naegleria fowleri* (naegleriasis);
- (B) *Toxoplasma gondii* (toxoplasmosis);
- (C) *Schistosoma* species (bilharziasis); and
- (D) *Cryptosporidium parvum* (cryptosporidiosis); and

(5) Other toxins, including, but not limited to:

- (A) Ricin; and
- (B) Saxitoxin.

(c) "Chemical warfare agents" include, but are not limited to, the following agents, or any analog of these agents, intended for use in war or other attack to cause disease or death in humans, animals, or plants:

(1) Nerve agents, including, but not limited to:

- (A) Ethyl NN-dimethylphosphoramidocyanidate (Tabun, or GA);
- (B) O-isopropyl methylphosphonofluoridate (Sarin, or GB);
- (C) O-1,2,2-trimethylpropyl methylphosphonofluoridate (Soman, or GD);

(D) O-cyclohexyl methylphosphonofluoridate
(cyclosarin, or GF);

(E) O-ethyl S-2-diisopropylaminoethyl
methylphosphonothiolate (VX);

(F) O-ethyl S-2-dimethylaminoethyl
methylphosphonothiolate (medemo); and

(G) O-isobutyl S-2-diethylaminoethyl
methylphosphonothiolate (VR);

(2) Blood agents, including, but not limited to:

(A) Hydrogen cyanide (AC);

(B) Cyanogen chloride (CK); and

(C) Arsine (SA);

(3) Blister agents, including, but not limited to:

(A) Mustards (H, HD (sulfur mustard), HN-1, HN-2, HN-3 (nitrogen mustard));

(B) Arsenicals, including, but not limited to, Lewisite (L);

(C) Urticants, including, but not limited to, CX;

(D) Bis(2-chloroethylthioethyl) ether (agent T); and

(E) Incapacitating agents, including, but not limited to, BZ; provided, that "incapacitating agents" shall not include any agent, the possession of which is otherwise lawful, that is intended for use for self-defense or defense of others;

(4) Choking agents, including, but not limited to:

(A) Phosgene (CG);

(B) Diphosgene (DP); and

(C) Chloropicrin;

(5) Pesticides;

(6) Dioxins;

(7) Polychlorinated biphenyls (PCBs);

(8) Flammable industrial gases and liquids including, but not limited to,

(A) Gasoline; and

(B) Propane; and

(9) Tear gases and other disabling chemicals including, but not limited to:

(A) 10-chloro-5, 10-dihydrophenarsazine (adamsite, or DM);

(B) 1-chloroacetophenone (CN);

(C) a-bromophenylacetonitrile (Iarmine, BBC or CA);

(D) 2-chlorobenzalmalononitrile (CS);

(E) Dibenzoxazepine (CR);

(F) Oleoresin capsicum (OC); and

(G) 3-quinuclidinyl benzilate (BZ); provided, that "tear gases and other disabling chemicals" shall not include any agent, the possession of which is otherwise lawful, that is intended for use for self-defense or defense of others.

(d) "Material support or resources" means currency or other financial securities, financial services, lodging, training, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, except medicine or religious materials.

(e) "Nuclear or radiological agents" includes, but is not limited to:

(1) Any explosive device designed to cause a nuclear yield, also known as an improvised nuclear device (IND);

(2) Any explosive device utilized to spread radioactive material, also known as a radiological dispersal device (RDD); and

(3) Any act or container designed to release radiological material as a weapon without an explosion, also known as a simple radiological dispersal device (SRDD).

(f) "Weapon of mass destruction" includes chemical warfare agents, biological or biologic warfare agents, weaponized agents, weaponized biological or biologic warfare agents, nuclear agents, radiological agents, or the intentional release of industrial agents as a weapon.

(g) "Weaponization" is the deliberate processing, preparation, packaging, or synthesis of any substance for use as a weapon or munition.

(h) "Weaponized agents" are those agents or substances prepared for dissemination through any explosive, thermal, pneumatic, or mechanical means.

(i) "Weaponized biological or biologic warfare agents" include, but are not limited to, weaponized pathogens, such as bacteria, viruses, rickettsia, yeasts, fungi, or genetically engineered pathogens, toxins, vectors, and endogenous biological regulators (EBRs).

39-13-805.

(a) It is an offense for any person to commit an act of terrorism in this state.

(b) An act of terrorism is a Class A felony.

39-13-806.

(a) It is an offense for any person, without lawful authority, to possess, develop, manufacture, produce, transfer, acquire, weaponize, or retain any weaponized agent, biological warfare agent, weaponized biological or biologic warfare agent, chemical warfare agent, nuclear or radiological agent, or any other weapon of mass destruction.

(b) A violation of subsection (a) of this section is a Class B felony.

39-13-807.

(a) It is an offense for any person to provide material support or resources to any person known by the person providing such material support or resources to be planning or carrying out an act of terrorism in this state, or concealing or attempting to escape after committing or attempting to commit an act of terrorism.

(b) A violation of subsection (a) of this section is a Class B felony.

(c) The provisions of this subsection shall not apply to any financial service, funds transfer, or securities transaction conducted in the ordinary course of business by a financial institution subject to the information sharing, suspicious activity reporting, or currency transaction reporting requirements of the Bank Secrecy Act (31 U.S.C. § 5311 *et seq.*, or the U.S.A. Patriot Act (PL 107-56); provided, that any such institution that acts with the intent to assist, aid, or abet any person planning or carrying out an act of terrorism in this state, or concealing or attempting to escape after committing or attempting to commit an act of terrorism, shall remain liable under subsection (a). For purposes of this act, "financial institution" shall have the meaning provided in 31 C.F.R. § 103.110.

39-13-808.

(a) It is an offense for any person to distribute or to deliver, as an act of terrorism or as a hoax, any substance that is intended to, or that such person has reason to believe may, create a fear or apprehension on the part of any other person that such substance may be a biological warfare agent, a chemical warfare agent, or a nuclear or radiological agent, without regard to whether such substance is in fact a biological warfare agent, chemical warfare agent, or a nuclear or radiological agent.

(b)

(1) A violation of subsection (a) of this section as an act of terrorism is a Class A felony.

(2) A violation of subsection (a) of this section as a hoax is a Class C felony.

(c) In addition to the penalties otherwise provided by law, any person convicted of a violation of subsection (a), either as an act of terrorism or as a hoax, shall make restitution of the costs incurred by any public or private entity or person resulting from such offense.

SECTION 2.

(a) Tennessee Code Annotated, Section 39-13-202(a), is amended by deleting subdivision (2) in its entirety and by substituting instead the following language:

(2) A killing of another committed in the perpetration of or attempt to perpetrate any first degree murder, act of terrorism, arson, rape, robbery, burglary, theft, kidnapping, aggravated child abuse, aggravated child neglect or aircraft piracy; or

(b) Tennessee Code Annotated, Section 39-13-204(i), is amended by adding the following new subdivision and by renumbering the remaining subdivisions accordingly:

(1) The murder was committed in the course of an act of terrorism;

(c) Tennessee Code Annotated, Section 40-35-114, is amended by adding the following new subdivision (1) and by renumbering the remaining subdivisions appropriately:

(1) The offense was an act of terrorism, or was related to an act of terrorism;

SECTION 3. Tennessee Code Annotated, Section 55-50-602(b) is amended by adding the following language at the end of the subsection:

A violation of subsection (a) in connection with an act of terrorism, a planned act of terrorism, or an attempted act of terrorism, is a Class B felony, with a permanent and irrevocable suspension of driving privileges; provided, that the defendant knew or should have known at the time of the offense that the driver's license or facsimile would be used in such manner.

SECTION 4. Tennessee Code Annotated, Section 39-14-602, is amended by adding the following new subsection:

(d) Any person who violates subsections (a), (b), or (c) of this section in connection with an act of terrorism commits a Class A felony.

SECTION 5. Tennessee Code Annotated, Section 39-17-1302, is amended by deleting subsection (d) in its entirety and by substituting instead the following language:

(d)

(1) An offense under subdivision (a)(1) is a Class B felony.

(2) An offense under subdivisions (a)(2)-(5) is a Class E felony.

(3) An offense under subdivision (a)(6) is a Class C felony.

(4) An offense under subdivisions (a)(7)-(8) is a Class A misdemeanor.

SECTION 6. Tennessee Code Annotated, Section 39-16-502, is amended by deleting subsection (b) in its entirety and by substituting instead the following language:

(b)

(1) A violation of subdivision (a)(1) or (a)(2) is a Class D felony.

(2) A violation of subdivision (a)(3) is a Class C felony.

SECTION 7.

(a) Tennessee Code Annotated, Section 58-2-106(b)(1)(C), is amended by deleting subitem (vii) in its entirety and by substituting instead the following:

(vii) Provide for a comprehensive communications plan, including, but not limited to, a computerized telephone emergency warning system;

(b) Tennessee Code Annotated, Section 58-2-102(c), is amended by deleting the language "Therefore, the general assembly hereby determines and declares that the provisions of this chapter fulfill an important state interest." and by substituting instead the following language:

Therefore, the general assembly hereby determines and declares that the provisions of this chapter fulfill a compelling state interest.

SECTION 8. Tennessee Code Annotated, Section 47-18-104(b), is amended by adding the following new subdivision:

(34) Unreasonably raising prices or unreasonably restricting supplies of essential goods, commodities or services in direct response to a crime, act of terrorism, war, or natural disaster, regardless of whether such crime, act of terrorism, war, or natural disaster occurred in the state of Tennessee.

SECTION 9. Tennessee Code Annotated, Section 38-6-102, is amended by adding the following as an appropriately designated new subsection:

(f) Investigators of the bureau of investigation are authorized, without a request from the district attorney general, to make investigations based upon intelligence information pertaining to domestic terrorism that the bureau received under a government information security classification. Investigators may make investigations based upon intelligence information pertaining to domestic terrorism that the bureau received from non-classified sources upon the request of the district attorney general.

SECTION 10. Tennessee Code Annotated, Section 38-3-120, is amended by adding the following new, appropriately designated subsection:

(j) The provisions of subsections (a) through (h) shall apply to air carriers holding an Air Carrier Certificate issued under 14 C.F.R. Part 119 and operating under 14 C.F.R. Part 121, or to the corporate parent of such entities, either of which shall have the same rights, authority and limitations as TVA

possesses with regard to the appointment of peace officers, known under this section as Transportation Security Officers. The following shall apply to Transportation Security Officers:

(1) The air carrier or the parent of such entity employing and designating Transportation Security Officers shall own or lease property, and employ persons within the State of Tennessee;

(2) Only personnel of such air carrier, or its parent, who are designated as Transportation Security Officers by such air carrier shall receive appointments;

(3) Each Transportation Security Officer appointed or designated by air carriers holding an Air Carrier Certificate under 14 C.F.R. Part 119 and operating under 14 C.R.F. Part 121, or the corporate parent of such entities, shall possess all of the powers of a peace officer, described in this statute, including the power to make arrests for public offenses committed against employees or agents or against the property of the air carrier or its corporate parent and, while in pursuit of a person fleeing after committing such an offense, may pursue the person and make arrests. Additionally, such officers shall possess authority to carry weapons for the reasonable purposes of their offices and while in the performance of their assigned duties. Notwithstanding any provision of law to the contrary, the authorities, responsibilities and liabilities of such officers shall be limited as provided for under this section.

(4) Such air carrier, or the parent of such entity, and any such personnel employed by such carrier shall comply with all requirements of federal law pertaining to security operations associated with air carriers.

(5) Transportation Security Officers appointed under this section must complete appropriate initial and recurrent law enforcement training substantially equivalent to the requirements of the Tennessee Peace Officer Standards and Training Commission.

(6) Any air carrier qualifying under the provisions of this subsection shall, at the time of the first appointment of transportation security officers, notify the airport proprietors of the airports served by the air carrier of the appointment of such officers, and the air carrier shall comply with the security plans of each airport with respect to the carrying of arms by such officers.

(7) The provisions of subsection (j) shall not require an air carrier to designate any transportation security officers or otherwise staff law enforcement positions.

SECTION 11. Tennessee Code Annotated, Title 40, Chapter 17, Part 1, is amended by adding the following as a new, appropriately designated section:

40-17-1__.

(a) The following procedure shall be employed when a law enforcement officer, as defined in §39-11-106, seeks to obtain a subpoena for the production of books, papers, records, documents, tangible things, or information and data

electronically stored for the purpose of establishing, investigating or gathering evidence for the prosecution of a criminal offense.

(b) If the officer has reason to believe that a criminal offense has been committed or is being committed and that requiring the production of documents or information is necessary to establish who committed or is committing the offense or to aid in the investigation and prosecution of the person or persons believed to have committed or believed to be committing the offense, the officer shall prepare an affidavit in accordance with subsection (c).

(c) An affidavit in support of a request to compel the production of books, papers, records, documents, tangible things, or information and data electronically stored shall state with particularity the following:

(1) A statement that a specific criminal offense has been committed or is being committed and the nature of such offense;

(2) The articulable reasons why the law enforcement officer believes the production of the documents requested will materially assist in the investigation of the specific offense committed or being committed;

(3) The custodian of the documents requested and the person, persons or corporation about whom the documents pertain;

(4) The specific documents requested to be included in the subpoena; and

(5) The nexus between the documents requested and the criminal offense committed or being committed.

(d)

(1) Upon preparing the affidavit, the law enforcement officer shall submit it to either a judge of a court of record or a general sessions judge who serves the officer's county of jurisdiction. The judge shall examine the affidavit and may examine the affiants under oath. The judge shall grant the request for a subpoena to produce the documents requested if the judge finds that the affiants have presented a reasonable basis for believing that:

(A) A specific criminal offense has been committed or is being committed;

(B) Production of the requested documents will materially assist law enforcement in the establishment or investigation of such offense;

(C) There exists a clear and logical nexus between the documents requested and the offense committed or being committed; and

(D) The scope of the request is not unreasonably broad or the documents unduly burdensome to produce.

(2) If the judge finds that all of the criteria set out in subsection (d)(1) exist as to some of the documents requested but not all of them,

the judge may grant the subpoena as to the documents that do but deny it as to the ones that do not.

(3) If the judge finds that all of the criteria set out in subsection (d)(1) do not exist as to any of the documents requested, the judge shall deny the request for subpoena.

(e) The affidavit filed in support of any request for the issuance of a subpoena pursuant to this section shall be filed with and maintained by the court. If a subpoena is issued as the result of such an affidavit, such affidavit shall be kept under seal by the judge until a copy is requested by the district attorney general, criminal charges are filed in the case, or the affidavit is ordered released by a court of record for good cause.

(f) A subpoena granted pursuant to this section by a judge of a court of record shall issue to any part of the state and shall command the person, or designated agent for service of process, to whom it is directed to produce any books, papers, records, documents, tangible things, or information and data electronically stored that is specified in such subpoena, to the law enforcement officer and at such reasonable time and place as is designated in the subpoena. A subpoena granted pursuant to this section by a judge of a court of general sessions shall in all respects be like a subpoena granted by the judge of a court of record but shall issue only within the county in which such sessions judge has jurisdiction. The court shall prepare or cause to be prepared the subpoena and it shall describe the specific materials requested and set forth the date and manner the materials are to be delivered to the officer.

(g) If the subpoena is issued by a judge of a court of record, it may be served by the officer in any county of the state by personal service, registered mail, or by any other means with the consent of the person named in the subpoena. If the subpoena is issued by a judge of a general sessions court it shall be served by an officer with jurisdiction in the county of the issuing judge but may be served by personal service, registered mail, or by any other means with the consent of the person named in the subpoena. The officer shall maintain a copy of the subpoena and endorse thereon the date and manner of service as proof thereof.

(h) No person shall be excused from complying with a subpoena for the production of documentary evidence issued pursuant to this section on the ground that production of the requested materials may tend to incriminate such person. Any person claiming such privilege against self incrimination must assert such claim before the court issuing the subpoena and before the time designated for compliance therewith. If the district attorney general thereafter certifies to the court that the interests of justice demands the production of the requested materials for which the claim of privilege is asserted, then the court shall order the production of such materials and no such individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning the requested materials the person was compelled to produce. If the person fails to assert the privilege against self-incrimination, such person may raise this issue later but will not be entitled to immunity from prosecution.

(i) No subpoena for the production of documentary evidence authorized by this section shall be directed to, or served upon, any defendant, or his counsel, to a criminal action in this state.

(j) If any person without cause refuses to produce the requested materials within the time and manner designated for compliance by the issuing judge, the district attorney may file a motion for civil contempt with the court with such motion and show cause order being served upon the person. Such order shall designate a time and place for a hearing on the merits. If at the hearing the court finds that the person has willfully refused to produce the requested materials, the court may find that the person is in civil contempt and may assess sanctions accordingly including incarcerating the person with or without bond being set until compliance with the subpoena is satisfied. If the person fails to appear for such hearing, the court may issue a writ of attachment for said person.

(k) A person to whom a subpoena is directed may file a motion to quash or modify the subpoena upon a showing that compliance would be unreasonable or oppressive. Such person shall file any such motion stating an objection to the subpoena with the clerk of the court for the issuing judge within seven (7) days of service of the subpoena. The filing of such motion shall stay all proceedings pending the outcome of a hearing before the issuing judge. The judge shall conduct the hearing within seven (7) days of the filing of the motion.

(l) Notwithstanding the above subsections, a subpoena shall also comply with the provisions of the Financial Records Privacy Act, Tennessee Code Annotated, Title 45, Chapter 10, as to any records or persons covered by such act.

SECTION 12. Tennessee Code Annotated, Section 10-7-504(a), is hereby amended by adding the following new, appropriately designated subdivision:

(20)

(A) The following records shall be treated as confidential and shall not be open for public inspection:

(i) Records that would allow a person to identify areas of structural or operational vulnerability of a utility service provider or that would permit unlawful disruption to, or interference with, the services provided by a utility service provider;

(ii) All contingency plans of a governmental entity prepared to respond to or prevent any violent incident, bomb threat, ongoing act of violence at a school or business, ongoing act of violence at a place of public gathering, threat involving a weapon of mass destruction, or terrorist incident.

(B) Documents concerning the cost of governmental utility property, the cost of protecting governmental utility property, the cost of identifying areas of structural or operational vulnerability of a governmental utility, the cost of developing contingency plans for a governmental entity, and the identity of vendors providing goods or services to a governmental entity in connection with the foregoing shall not be confidential. However, any documents relating to these subjects shall not be made available to the public unless information that is confidential under this subsection or any other provision of this chapter has been redacted or deleted from the documents.

(C) As used in this subdivision:

(i) "Governmental entity" means the state of Tennessee or any county, municipality, city or other political subdivision of the state of Tennessee;

(ii) "Governmental utility" means a utility service provider that is also a governmental entity; and

(iii) "Utility service provider" means any entity, whether public or private, that provides electric, gas, water, sewer or telephone service, or any combination of the foregoing, to citizens of the State of Tennessee, whether or not regulated by the Tennessee Regulatory Authority.

SECTION 13. Tennessee Code Annotated, Section 4-4-125, as amended by H.B. 1434, Chapter_____ of the Public Acts of 2002, is amended by deleting it in its entirety, and by substituting instead the following language:

No state entity shall publicly disclose the social security number of any citizen of the state unless:

(1) Such permission is given by such citizen;

(2) Distribution is authorized under state or federal law; or

(3) Distribution is made:

(A) To a consumer reporting agency as defined by the federal Fair Credit Reporting Act, 15 U.S.C. § 1681, et seq.;

(B) To a financial institution subject to the privacy provisions of the federal Gramm Leach Bliley Act, 15 U.S.C. § 6802; or

(C) To a financial institution subject to the International Money Laundering Abatement and Financial Anti-Terrorism Act of 2001, 31 U.S.C. § 5311, et seq.

For purposes of this section, "publicly disclose" shall not include the use of any social security number by any state governmental entity in the performance of its functions or the disclosure of any social security number to another state entity, political subdivision, agency of the federal government, or any private person or entity which has been authorized to perform certain duties as a contractor of the State of Tennessee. Any person or entity receiving a social security number from any state entity shall be subject to the same confidentiality provisions as the disclosing state entity; provided, however, the confidentiality provisions applicable to a consumer reporting agency or financial institution as defined in item (3) above shall be governed by federal law. For purposes of this section, "state entity" means any state department, division, agency, bureau, board, commission, or other separate unit of state government created or established by the constitution, by law or pursuant to law, including the legislative branch and the judicial branch, and any employee or agent thereof.

SECTION 14. Tennessee Code Annotated, Section 40-35-313, is amended by adding the following new subsection (c) and by relettering present subsection (c) accordingly:

(c) Notwithstanding the provisions of this section or § 40-32-101(a)(3)-(c)(3) to the contrary, a plea of guilty or a verdict of guilty by a judge or jury for a criminal felony offense involving an act of terrorism or any other felony offense involving violence, coercion, dishonesty or the disruption of the operations of a state or local government is admissible into evidence in a civil action for the purpose of impeaching the truthfulness, veracity or credibility of a witness if such plea or verdict occurred within ten (10) years of the date the evidence is sought to be admitted and the witness is a party to the civil action. Such a plea or verdict is admissible for the purposes set out in this subsection notwithstanding the fact that the public records of such plea or verdict have been expunged pursuant to this section either prior to or after the commencement of the civil action at which the plea or verdict is sought to be admitted. In addition, the non-public records retained by the court, Tennessee bureau of investigation or a local law enforcement agency shall constitute official records of plea or verdict and are subject to the subpoena power of the courts of civil jurisdiction.

SECTION 15. Tennessee Code Annotated, Section 40-35-313, is further amended by deleting from the fourth sentence of subsection (a)(2) the language "or for the limited purposes provided in subsection (b)" and substituting instead the language "or for the limited purposes provided in subsections (b) and (c)".

SECTION 16. Tennessee Code Annotated, Section 40-35-313, is further amended by deleting from the fifth sentence of subsection (a)(2) the language "except as provided in subsection (b)" and substituting instead the language "except as provided in subsections (b) and (c)".

SECTION 17. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.


SECTION 18. This act shall take effect upon becoming a law, the public welfare requiring it.

PASSED: June 29, 2002


JIMMY RAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES


JOHN S. WILDER
SPEAKER OF THE SENATE

APPROVED this 4th day of July 2002


DON SUNDQUIST, GOVERNOR